

BROADCAST AND COMMUNICATION TOWERS

COMMERCIAL PROJECTS

| PERMIT # | CASE NAME | PROJECT DESCRIPTION | TOWN | ISSUED |
|----------|-----------------------------|---|------------|---------|
| 2W1012 | U.S. CELLULAR | CONSTRUCT A 120' COMMUNICATION TOWER | WILMINGTON | PERMIT |
| 3R0036-1 | ATLANTIC CELLULAR | CONSTRUCT CONCRETE PAD, METAL EQUIPMENT BLDG., & ANTENNA | NEWBURY | PERMIT |
| 3R0036-2 | VT. RSA LTD. | CONSTRUCT ADDITION TO EQUIPMENT BLDG. & INCREASE TOWER HEIGHT | NEWBURY | PERMIT |
| 3R0703 | STOKES COMMUNICATIONS CORP. | REPLACE 120' COMMUNICATION TOWER W/ 300' TOWER | RANDOLPH | PERMIT |
| 3W0726 | ATLANTIC CELLULAR | CONSTRUCT 120' COMMUNICATION TOWER | ROYALTON | PERMIT |
| 3W0738-4 | CELLCO PARTNERSHIP | CONSTRUCT 190' COMMUNICATIONS TOWER | SHARON | PENDING |
| 3W0755 | LISBON COMMUNICATIONS, INC. | CONSTRUCT 140' BROADCAST TOWER TO EXISTING EQUIPMENT BLDG. | SHARON | PENDING |
| 5L0711-3 | HERITAGE MEDIA & WPTZ-TV | INSTALL A 6' DISH ANTENNA FOR ETV | STOWE | PERMIT |
| 5L0711-4 | NE WIRELESS & ETV | MOUNT 3 TRANSMITTING ANTENNAS & 1 DISH | STOWE | PERMIT |
| 5L0711-5 | NE WIRELESS | INSTALL ANTENNAS ON ETV TOWERS AND CONSTRUCT BLDG. | STOWE | PERMIT |
| 5L0711-6 | ATLANTIC CELLULAR | INSTALL 2 MICROWAVE DISHES & 4 PANEL ANTENNA TO ETV TOWERS | PROVIDENCE | PERMIT |

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BROADCAST AND COMMUNICATION TOWERS

COMMERCIAL PROJECTS

| PERMIT # | CASE NAME | PROJECT DESCRIPTION | TOWN | ISSUED |
|----------|---|--|---------------|--------|
| 5L0711-7 | LOUIS BUZZI D/B/A NE PAGING | INSTALL 1 - 15' ANTENNA ON EXISTING TOWER | ST. JOHNSBURY | PERMIT |
| 5L0759-2 | U.S. DEPARTMENT JUSTICE, DRUG ENFORCEMENT | INSTALL 3' ANTENNA & EQUIPMENT BLDG. | STOWE | PERMIT |
| 5W1166 | TRANS-VIDEO, INC. | RELOCATE SATELLITE DISH ANTENNA | NORTHFIELD | PERMIT |
| 5W1166-1 | TRANS-VIDEO, INC. | CHANGE LOCATION OF 4 DISH ANTENNAS | NORTHFIELD | PERMIT |
| 6F0475 | CLARKS COMMUNICATIONS | REPLACE EXISTING TOWER & INCREASE HEIGHT | ST. ALBANS | PERMIT |
| 6G0436 | VT. WIRELESS COOPERATIVE | ERECT TRANSMISSION TOWER AND INSTALL DISH | NORTH HERO | PERMIT |
| 6G0472 | ATLANTIC CELLULAR | CONSTRUCT COMMUNICATION TOWER AND EQUIPMENT SHED | SOUTH HERO | PERMIT |
| 6G0481 | VT. WIRELESS COOPERATIVE | ERECT SINGLE COMMUNICATIONS TOWER | ALBURG | PERMIT |
| 700004-4 | ATLANTIC CELLULAR | ADD 2 MICROWAVE DISHES & 4 WHIP ANTENNAS | SOMERSET | PERMIT |
| 7C0467-5 | ATLANTIC CELLULAR | ADD MICROWAVE DISH AND 4 WHIP ANTENNA | PROVIDENCE | PERMIT |
| 7C0467-6 | VT. RSA LTD. PART. | INSTALL CELLULAR COMMUNICATIONS TOWER | PROVIDENCE | PERMIT |

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| PERMIT # | CASE NAME | PROJECT DESCRIPTION | TOWN | ISSUED |
|-----------|---|--|------------------|---------|
| 7C0563-5 | FEDERAL AVIATION ADMINISTRATION | ERECT 10' AND ' DIAMETER ANTENNA | BURKE | PERMIT |
| 7C0796 | JOHN SUKER D/B/A CENTRAL VERMONT COMMUNICATIONS | ERECT 300' HIGH RADIO TOWER, 1500' POWER LINE | ST. JOHNSBURY | PERMIT |
| 7C0814 | KIRK FENNOFF | ERECT 100' GALVANIZED TOWER W/ GUY WIRES | DANVILLE | PERMIT |
| 7C0938 | PC CELLULAR | ERECT COMMUNICATION TOWER, EQUIPMENT SHED | DANVILLE | PERMIT |
| 7R0464-10 | ATLANTIC CELLULAR | INSTALL MICROWAVE DISH & ANTENNA | PROVIDENCE | PENDING |
| 7R0464-11 | VT. RSA LTD. PARTNERSHIP | INSTALL TELECOMMUNICATIONS EQUIPMENT | MENANDS | PERMIT |
| 7R0464-6 | FEDERAL AVIATION ADMINISTRATION | INSTALL 2 - 6' DIAMETER ANTENNAS | JAY PEAK | PERMIT |
| 7R0464-8 | RINKERS COMMUNICATIONS | INSTALL 22 X 5' ANTENNA ON ROOF OF LODGE | JAY | PERMIT |
| 7R0464-9 | CITIZENS UTILITIES CO. & JAY PEAK | INSTALL 7 X 28' CONE-COVERED ANTENNA | JAY | PERMIT |
| 7R0842 | VT. WIRELESS COOPERATIVE | CONSTRUCT TRANSMISSION TOWER | NEWPORT | PERMIT |
| 8B0324-2 | HORIZON CELLULAR TELEPHONE | ATTACH ANTENNAS TO EXISTING FAA TOWER | MANCHESTER | PERMIT |

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BROADCAST AND COMMUNICATION TOWERS

COMMERCIAL PROJECTS

| PERMIT # | CASE NAME | PROJECT DESCRIPTION | TOWN | ISSUED |
|----------|--------------------------|---|------------|---------|
| 8B0410 | FIRST CAROLINA CABLE TV | CONSTRUCT 600 SF COMM. BLDG. W/ TRANSMITTER | MANCHESTER | PERMIT |
| 8B0415-1 | CVPSC | ERECT 50' FREE-STANDING COMMUNICATION TOWER | MANCHESTER | PERMIT |
| 8B0507 | U.S. CELLULAR | ERECT 120' TOWER ATOP PROSPECT MTN. W/ STORAGE BLDG. | WOODFORD | PERMIT |
| 9A0203 | VT. WIRELESS COOPERATIVE | APPROVE EXISTING RADIO TOWERS | MONKTON | PERMIT |
| 9A0223 | JEFF & LINDA SMITH | CONSTRUCT 150' STRUCTURE TO SUPPORT COMMUNICATION ANTENNA | LEICESTER | PENDING |
| 9A0224 | ATLANTIC CELLULAR | CONSTRUCT CELLULAR COMMUNICATIONS FACILITY | ADDISON | PENDING |
| 1R0542-8 | KILLINGTON, LTD. | REPLACE EXISTING ANTENNA W/ OMNI-DIRECTIONAL | SHERBURNE | PERMIT |
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January 1990 through December 1995:

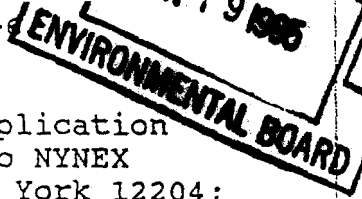
Permits issued: 58

Denials: 2

Pending: 6

TOTAL: 66

NOTICE OF APPLICATION
ACT 250 MINOR APPLICATION #7C0467-
10 V.S.A., Chapter 151



Notice is hereby given that on May 5, 1995 an application was filed by Vermont RSA Limited Partnership, c/o NYNEX Mobile Communications, 46 Broadway, Menands, New York 12204; Vermont ETV, 88 Ethan Allen Avenue, Colchester, Vermont 05446-3129 and State of Vermont, Dept. of Forests, Parks and Recreation, 103 South Main Street, Waterbury, Vermont 05676 to install both a temporary and a permanent cellular communications facility on Burke Mountain consisting of 4 whip-type antennae and 1 panel-type antenna on the existing 100 foot tower along with a temporary equipment enclosure housing the necessary electronic equipment for the cell site. The proposed antennae array will consist of four-13 foot whip antennae mounted vertically on the tower along with a one 4-foot long by 1-foot wide panel antenna also mounted vertically. A temporary equipment cabinet will be housed on the ground in a self-contained, galvanized steel, weather resistant prefabricated enclosure (6 feet 3 inches x 6.25 feet) located in a corner of the existing paved parking area on site and will be protected from vehicles by temporary barriers. The project will not require any water supply or wastewater disposal facilities. The project is located at the summit of Burke Mountain in the Town of Burke, Vermont.

The District Environmental Commission will treat this application under Environmental Board Rule 51 -- Minor Applications. A proposed permit has been prepared for public review and comment. Copies of the application and plans for the project, along with the proposed permit, are available for inspection by the public during regular working hours at the District #7 Environmental Commission Office, 184 Portland Street, St. Johnsbury, Vermont.

No hearing will be convened unless, on or before Thursday, June 8, 1995 a party notifies the Commission of an issue or issues requiring the presentation of evidence at a hearing, or the Commission sets the matter for hearing on its own motion. If a timely hearing request is received, the hearing will be convened on Friday, June 9, 1995 or as soon as possible thereafter.

In the event a hearing is held and you have a disability for which you are going to need accommodation, please notify us by Monday, June 5, 1995.

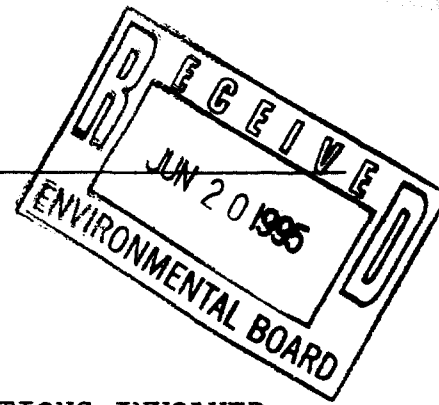
Parties entitled to participate are the municipality, the municipal planning commission, the regional planning commission, state agencies, adjoining property owners, and persons granted party status pursuant to Board Rule 14(B).

Dated at St. Johnsbury, Vermont this 18th day of May, 1995.

BY: Michele Boomhower
Assistant Coordinator District #7
184 Portland Street
St. Johnsbury, VT 05819 Tel. (802)-748-8787



State of Vermont



LAND USE PERMIT

AMENDMENT

| | | |
|----------------------------------|--|--|
| CASE APPLICANTS | #7C0467-6 Vermont RSA Limited Partnership c/o NYNEX Mobile 46 Broadway Menands, NY 12204 and Vermont ETV 88 Ethan Allen Avenue Colchester, VT 05446-3129 and State of Vermont Dept. of Forests, Parks & Recreation 103 South Main Street Waterbury, VT 05676 | <u>LAWS/REGULATIONS INVOLVED</u> 10 V.S.A., Chapter 151 (Act 250) |
|----------------------------------|--|--|

District Environmental Commission #7 hereby issues Land Use Permit Amendment #7C0467-6 pursuant to the authority vested in it in 10 V.S.A., Chapter 151. This permit amendment applies to the lands identified in Book 19C, Pages 194 & 197 of the land records of Burke, Vermont, as the subject of a deed to the State of Vermont with a lease agreement with Vermont ETV and NYNEX, the "permittees as grantees". This permit amendment specifically authorizes the permittees to install both a temporary and a permanent cellular communications facility on Burke Mountain consisting of 4 whip-type antennae and 1 panel-type antenna on the existing 100 foot tower along with a temporary equipment enclosure housing the necessary electronic equipment for the cell site. The proposed antennae array will consist of four-13 foot whip antennae mounted vertically on the tower along with one 4-foot long by 1-foot wide panel antenna also mounted vertically. A temporary equipment cabinet will be housed on the ground in a self-contained, galvanized steel, weather resistant prefabricated enclosure (6 feet 3 inches x 6.25 feet) located in a corner of the existing paved parking area on site and will be protected from vehicles by temporary barriers. The project will not require any water supply or wastewater disposal facilities. The project is located at the summit of Burke Mountain in the Town of Burke, Vermont.

The permittees, their assigns and successors in interest, are obligated by this permit amendment to complete and maintain the project only as approved by the District Commission in accordance with the following conditions:

1. Except as specifically amended herein, all terms and conditions of Land Use Permit #7C0467 and subsequent amendments remain in full force and effect.
2. The project shall be completed, maintained and operated in accordance with the plans and exhibits on file with the District, and in accordance with the conditions of this permit. No changes shall be made in the project without the written approval of the District Commission.
3. By acceptance of the conditions of this permit without appeal, the permittees confirm and agree for themselves and all assigns and successors in interest that the conditions of this permit shall run with the land and the land uses herein permitted, and will be binding upon and enforceable against the permittees and all assigns and successors in interest.
4. The District Commission maintains continuing jurisdiction during the lifetime of the permit and may periodically require that the permit holder file an affidavit certifying that the project is being completed in accordance with the terms of the permit.
5. By acceptance of this permit the permittees agree to allow representatives of the State of Vermont access to the property covered by the permit, at reasonable times, for the purpose of ascertaining compliance with Vermont environmental and health statutes and regulations and with this permit.
6. Each prospective purchaser of this tract shall be shown a copy of the approved plot plan and the Land Use Permit before any written contract of sale is entered into.
7. No further subdivision of the tract approved herein shall be permitted without the written approval of the District Commission.
8. The panel antenna shall be of a color to blend in with the existing tower infrastructure.
9. No further microwave dishes, antennae, or additional equipment shall be installed on the building exterior prior to review and approval by the District Coordinator or the District Commission under applicable Environmental Board Rules.

10. The District Environmental Commission reserves the right to evaluate and impose reasonable additional conditions necessary to ensure no undue adverse impact with respect to Criteria 1, Air Pollution. The Commission reserves this right for a period of time commencing and expiring with the permit as it relates to radio frequency radiation.
11. Notwithstanding the requirements of Condition #8 the project construction completion date shall be 2 months from the issuance of the permit, but no later than September 15, 1995, unless a request for extension of construction completion date is submitted to the District 7 Coordinator.
12. Notwithstanding any other provision herein, this permit shall expire three years from the date of issuance if the permittees have not commenced substantial construction in accordance with 10 V.S.A. § 6091(b) (amended June 21, 1994).
13. Pursuant to 10 V.S.A. § 6090(b) (effective June 21, 1994), this permit amendment is hereby issued for an indefinite term, as long as there is compliance with the conditions herein.

Dated at St. Johnsbury, Vermont, this 19th day of June, 1995.

BY



Edward Newell, Chairperson
District Environmental
Commission #7

Other members participating in this
decision:

Bridget Collier

William Johnson

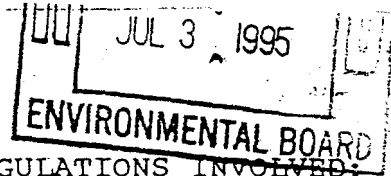


Michele Boomhower
Assistant District Coordinator
District Environmental Commission #7

State of Vermont



LAND USE PERMIT



CASE NO: 2W1012
 APPLICANT: U.S. CELLULAR
 288 ROUTE 101
 BEDFORD, NH 03110

LAWS/REGULATIONS INVOLVED:
 10 V.S.A., CHAPTER 151
 (ACT 250)

and
 CLIFFORD C. AND DIANA L. DUNCAN
 P. O. BOX 685, WILMINGTON, VT 05363
 and
 CELLULAR ONE
 3 BALDWIN AVENUE, SO. BURLINGTON, VT 05403

District 2 Environmental Commission hereby issues Land Use Permit #2W1012 pursuant to the authority vested in it in 10 V.S.A., Chapter 151. This permit applies to the lands identified in Book 93, Page 243; Book 71, Page 444; Book 114, Page 271; and Book 149, Page 378, of the land records of Wilmington, Vermont, as the subject of a deed to Clifford C. and Diana L. Duncan and lease agreements with U.S. Cellular and Cellular One, the "permittees" as grantees. This permit specifically authorizes the permittees to construct and operate a 120 foot communications tower, an access road and equipment building. The project is located off Route 9 in the Town of Wilmington.

The permittees, their assigns, and successors in interest, are obligated by this permit to complete and maintain the project only as approved by the District Environmental Commission in accordance with the following conditions:

1. The project shall be completed as set forth in Findings of Fact and Conclusions of Law #2W1012 in accordance with the plans and exhibits stamped "Approved" and on file with the District Environmental Commission, and in accordance with the conditions of this permit. No changes shall be made in the project without the written approval of the District Environmental Commission.
2. By acceptance of this permit the permittees agree to allow representatives of the State of Vermont access, at reasonable times, to the property covered by the permit, for the purpose of ascertaining compliance with Vermont environmental and health statutes and regulations and with this permit.
3. By acceptance of the conditions of this permit without appeal, the permittees confirm and agree for themselves and all assigns and successors in interest that the conditions of this permit shall run with the land and will be binding upon and enforceable against the permittees and all assigns and successors in interest. The granting of less than an undivided whole interest in this project is prohibited without prior approval of the District Environmental Commission.

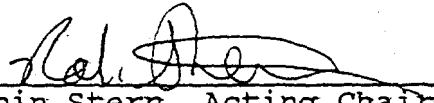
4. The District Environmental Commission maintains continuing jurisdiction during the lifetime of the permit and may periodically require that the permittees file an affidavit certifying that the project is being completed in accordance with the terms of the permit.
5. The permit hereby incorporates all of the conditions of the Water Supply and Wastewater Disposal Permit #WW-2-0805 and Deferral of Permit #DE-2-3341 issued by the Department of Environmental Conservation, Agency of Natural Resources in compliance with Vermont State Environmental Protection Rules.
6. The permittees shall implement all recommendations of the District Fisheries Biologist as outlined in Exhibit 23.
7. The permittees will create a turnaround at the access on Route 9 or otherwise ensure there is no backing out of vehicles or snowmobile trailers onto Route 9.
8. The District Environmental Commission reserves the right to evaluate and impose reasonable additional conditions necessary to ensure no undue adverse impact with respect to Criterion 8 Aesthetics. The Commission reserves this right for a period of time commencing and expiring with the permit.
9. Erosion Control: All mulch, hay bales, siltation dams, water bars and other temporary devices shall be installed immediately upon grading and shall be maintained until all permanent vegetation is established on all slopes and disturbed areas.
10. Starting at the commencement of construction the contractor shall complete daily erosion inspection and a Professional Engineer shall inspect the site at least once per week and at critical times until the project is completed to ensure that the erosion control plans are being followed. He or she shall certify by weekly affidavit to the District Environmental Commission that all erosion controls as specified and approved herein, are in place and properly maintained.
11. In addition to conformance with all erosion control conditions, the permittees shall not cause, permit or allow the discharge of waste material into any surface waters. Compliance with the requirements of this condition does not absolve the permittees from compliance with 10 V.S.A., Chapter 47, Vermont's Water Pollution Control Law.
12. All construction on this project must be completed by October 15, 1996.
13. The Duncan tower shall be removed within two weeks of the completion of the new tower construction.

14. Notwithstanding any other provision herein, this permit shall expire three years from the date of issuance if the permittees have not commenced construction and made substantial progress toward completion within the three year period in accordance with 10 V.S.A., § 6091(b) (Amended June 21, 1994).

15. Pursuant to 10 V.S.A. § 6090(b) (effective June 21, 1994), this permit is hereby issued for an indefinite term, as long as there is compliance with the conditions herein.

Failure to comply with any of the above conditions may be grounds for permit revocation pursuant to 10 V.S.A., Section 6090(b).

Dated at North Springfield, Vermont, on June 22, 1995.

By: 
Robin Stern, Acting Chair
District 2 Environmental Commission
Environmental Board

Others participating in this decision:

Thomas C. Spater

Any appeal of this decision must comply with all provisions of 10 V.S.A., §6089 and Environmental Board Rule 40 including the submission of ten copies of the following: notice of appeal, a statement of why the appellant believes the commission was in error, a statement of the issues to be addressed in the appeal, a summary of the evidence that will be presented, a preliminary list of witnesses and this decision. Decisions on minor applications may be appealed if a hearing was held by the district environmental commission or timely requested by the appellant.

STATE OF VERMONT
DISTRICT 2 ENVIRONMENTAL COMMISSION

| | | |
|--------------------------|---|------------------------|
| RE: U. S. Cellular |) | Application #2W1012 |
| 288 Route 101 |) | Findings of Fact and |
| Bedford, NH 03110 |) | Conclusions of Law |
| and |) | 10 V.S.A., Chapter 151 |
| Clifford C. Duncan |) | (Act 250) |
| Diana L. Duncan |) | |
| P.O. Box 685 |) | |
| Wilmington, VT 05363 |) | |
| and | | |
| Cellular One | | |
| 3 Baldwin Avenue | | |
| So. Burlington, VT 05403 | | |

INTRODUCTION TO THE FINDINGS OF FACT:

On April 13, 1995, an application for an Act 250 Permit was filed by U. S. Cellular, Clifford C. and Diana L. Duncan, and Cellular One, for a project generally described as construction of a gravel access road, a 120 foot tower and an equipment building. The project is located off Route 9 in the Town of Wilmington, Vermont.

The tract of land consists of 86 acres. The applicants' legal interests are ownership in fee simple, Clifford and Diana Duncan, and lease agreements with U. S. Cellular and Cellular One.

Decisions must be stated in the form of Findings of Fact and Conclusions of Law. The facts we have relied upon are contained in the documents on file identified as Exhibits 1 through 38 and the evidence received at hearings held on May 4, 1995, and May 31, 1995. A site visit was also held on May 4, 1995. At the end of the hearing, the proceeding was recessed pending submission of additional information and deliberation. The hearing was adjourned on June 6, 1995, upon receipt of all the additional information and review of the record.

Parties to this application are:

- (A) The Applicants by Clifford Duncan, Richard Craig, and LeRoy Womacke.
- (B) The Municipality of Wilmington by Michael Benson.
- (C) The Wilmington Planning Commission.
- (D) The Municipality of Marlboro.
- (E) The Marlboro Planning Commission.
- (F) The Windham Regional Planning Commission.
- (G) The Agency of Natural Resources.

- (H) Adjoining property owners and the criteria they were allowed to participate on:

The Kingdom Hall Church, represented by Robert Kazakiewich and Paul Brown requested party status under Criteria 1(A) Headwaters, 1(C) Water Conservation, 1(E) Streams, 4 Soil Erosion, 5 Traffic, and 8 Aesthetics. The Kingdom Hall Church was granted party status under Criteria 1(A) Headwaters, 1(E) Streams, 4 Soil Erosion, and 5 Traffic. The request under Criterion 8 was denied as the tower will not be visible from the Kingdom Hall Church property.

Skyline Partners, represented by Dan Purjes and Clyde Reed, are abutting property owners were granted party status under Criterion 8 Aesthetics.

- (I) Persons granted party status on Environmental Board Rule 14B:

Robert Southworth lives across from the project on Route 9 and requested party status under Criteria 1(A) Headwaters, 1(B) Waste Disposal, 1(C) Water Conservation, 1(D) Floodways, 1(E) Streams, 4 Soil Erosion, and 8 Aesthetics. He was granted party status only on Criterion 8, as we did not believe his property interests may be affected under the other requested criteria.

FINDINGS OF FACT:

Prior to taking evidence with regard to the ten Criteria of 10 V.S.A., Section 6086(a), all parties agreed that the applicant through submission of the application material has met the burden of proof with respect to:

| | | | |
|-----|----------------------|------|--------------------------------|
| 1B | Waste Disposal | 9A | Impact of Growth |
| 1C | Water Conservation | 9B&C | Agricultural Soils |
| 1D | Floodways | 9D&E | Earth Resources |
| 1F | Shorelines | 9F | Energy Conservation |
| 1G | Wetlands | 9G | Private Utilities |
| 2&3 | Water Supplies | 9H | Costs of Scattered Development |
| 6 | Educational Services | 9J | Public Utilities |
| 7 | Municipal Services | 9L | Rural Growth Areas |
| 8A | Wildlife Habitat | | |

Parties, therefore, waived the issuance of written findings concerning these criteria as the application shall serve as Findings of Fact.

Jurisdiction over this application is conferred by 10 V.S.A., Chapter 151 because the project is commercial on more than one acre in a one acre town.

The following written Findings of Fact are limited to Criteria:

- | | |
|-----------------|--|
| 1 Air Pollution | 5 Traffic |
| 1A Headwaters | 8 Aesthetics |
| 1E Streams | 9K Impact on Public Investments |
| 4 Soil Erosion | 10 Conformance with Local and Regional Plans |

In making the following findings, we have summarized the statutory language of the 10 Criteria of 10 V.S.A., Section 6086(a):

CRITERION 1. THERE WILL BE NO UNDUE WATER OR AIR POLLUTION.

1 AIR POLLUTION:

Radiation emissions will be approximately one watt at the transmitter and 22 watts at the cellular. The nearest house is 1,500 feet away. Exhibit 15.

CRITERION 1(A) HEADWATERS:

1. The project is located in a headwaters area and has been designed to ensure stormwater is properly treated, streams are protected and erosion prevented. Exhibit 3.

CRITERION 1(B) WASTE DISPOSAL:

1. Drainage calculations have been performed and the project will maintain current stormwater runoff patterns. Exhibits 24 and 30.
2. The project access road will be compacted and graveled. Disturbed areas adjacent to the driveway shall be loamed, seeded and mulched. Testimony.
3. The project will use the existing culvert at the Route 9 access, which was constructed by the Vermont Agency of Transportation and is adequate to collect runoff from the project. Testimony.
4. No evidence was provided that the project would result in excessive runoff reaching the Kingdom Hall property.

CRITERION 1(E) STREAMS:

1. The project requires the installation of culverts in intermittent stream channels at four locations. Exhibits 3 and 31.

2. In order to protect the streams the following measures need to be taken:

a. Culvert installation will be done when the streams are dry and between June 1 and October 1. (This condition will eliminate the need to install hay bales and silt fence as described in the plans).

b. The large rip-rap channels (ten feet long) that are proposed downstream of each of the culverts appear to be excessive. Rip-rap will be limited to the immediate area of the culvert outlet.

c. Cutting of vegetation will be kept to the minimum necessary.

d. All disturbed areas will be mulched and seeded as described in the plan.

e. Undisturbed, naturally-vegetated buffer strips will be maintained for a distance of at least 50 feet from all stream banks on the project site except at crossing locations. No cutting or mowing of any vegetation or earth disturbance is permitted within buffer strips.

We will require the applicants follow the recommendations of the District Fisheries Biologist as outlined in Exhibit 23 in order to protect the natural condition of the streams.

CRITERION 4. WILL NOT CAUSE UNREASONABLE SOIL EROSION OR REDUCTION IN THE CAPACITY OF THE LAND TO HOLD WATER:

1. The project involves construction of a gravel driveway and clearing necessary for construction of the tower, an equipment building for U. S. Cellular, an 8 ft. by 8 ft. shed for the Duncans, and an equipment cabinet for Cellular One. The grades adjacent to Route 9 and along the New England power lines are approximately 14% with grades of 25% from the power line to the tower site. Exhibit 3.

2. All disturbed areas will be immediately seeded and mulched. The applicants shall utilize silt fence and hay bales as required to prevent erosion. Exhibits 3 and 23.

3. In order to ensure erosion is not a problem, we will add conditions to the permit requiring daily erosion control inspections by the contractor and weekly erosion control reports (summarizing and evaluating daily erosion prevention activities) by a registered Vermont professional engineer.

CRITERION 5. WILL NOT CAUSE UNREASONABLE CONGESTION OR UNSAFE CONDITIONS WITH RESPECT TO HIGHWAYS OR OTHER MEANS OF TRANSPORTATION:

1. The project will have a maximum of two trips a week. A four wheel drive vehicle will be used except in the winter when snowmobiles will be used to access the site. Testimony.

2. The applicants will create a turnaround at the access road or otherwise ensure there is no backing out of vehicles or snowmobile trailers onto Route 9. Testimony.

3. The Vermont Agency of Transportation has approved the access. Exhibit 25.

We find the project will not create congestion or unsafe conditions with respect to traffic on Route 9.

CRITERION 8. THERE WILL BE NO UNDUE ADVERSE EFFECTS ON AESTHETICS, SCENIC BEAUTY, HISTORIC SITES OR NATURAL AREAS.

1. The project site is a wooded mountain, Mount Olga, with two towers presently visible. Exhibit 3. The existing Duncan tower is 65 feet tall and is visible from Hogback Road, Lake Raponda and other locations. The new tower will replace the Duncan tower and will be 120 feet tall and 44 inches in width. The tower will extend 65 feet above the tree-line. Exhibit 3 and Testimony.

2. Photos depicting the proposed impact are shown on Exhibit 13. It should be noted these photos do not include the dishes which will be present on the tower.

3. The tower will not be lighted. Exhibit 3.

4. The tower will have up to 24 antennae, one corner reflector, and three 6 ft. to 8 ft. parabola dishes. The dishes will be dark gray and the radomes will be either round or oblong and gray. Exhibit 17 and Testimony.

5. Clearing at the tower site shall be limited to the fenced area and to cutting of tree branches for guy wires. Exhibit 1.

6. The access will be from Route 9 on an existing driveway and then onto a 20 foot deeded easement. Testimony.

7. Overhead electric line will be brought in along the driveway; minimizing tree cutting. Tree wire will also be used to minimize cutting and to try to preserve a canopy. The access road will not be visible (except the very beginning of the access road at Route 9) from off-site. Testimony.

We find the project will have an adverse impact on the aesthetics and scenic beauty of the area, but the impact is not unduly adverse. The project will not be shocking or offensive to the average person. There is no clear community standard restricting a tower in this location, and most importantly in this case, the applicants have taken steps to mitigate the visual impact. The tower will replace the Duncan tower, which we will require be removed within two weeks of the completion of the new tower construction. The applicants are also using a portion of an existing driveway and will minimize clearing on the access road and at the tower site. We will, however, retain jurisdiction over this criterion and as technology advances in the area of communications we will review how the aesthetic impact can be reduced, for example, utilizing smaller dishes or combining antennae.

CRITERION 9(K) PUBLIC INVESTMENTS:

1. The project is adjacent to the Molly Stark State Park, which has a fire tower available to the public and a communications tower site leased to New England Power Company. Exhibit 3. Although we believe it would be very desirable to combine all users on one tower, either the New England Power tower or the tower proposed in this application, we are persuaded that it is not feasible to do so at this time given the present lease restrictions at the Molly Stark State Park and the particular needs of the New England Power Company (See Exhibits 32-35). We find the proposed project will not unnecessarily or unreasonably endanger the public investment in the Molly Stark State Park, nor materially jeopardize or interfere with the public's use or enjoyment of the facility.

CRITERION 10 THE PROJECT IS IN CONFORMANCE WITH THE LOCAL OR REGIONAL PLAN:

1. The Town of Wilmington characterizes the project as a public utility and has granted a conditional use permit. Exhibit 10.

2. The Windham Regional Plan encourages expansion of communications at existing transmission and necessary stations if such expansion is in the best public interest, and discourages the development of new sites for transmission stations in favor of utilizing existing facilities. Exhibit 14.

3. The applicants actively explored co-location with New England Power Company but limitations of the size of the base area at Molly Stark State Park and transmitting needs of the New England Power Company have made co-location unfeasible at this time. Exhibits 32-35, and Testimony.

We find the project conforms to the intent of the local and regional plans.

CONCLUSION OF LAW:

Based upon the foregoing Findings of Fact, it is the conclusion of this District Environmental Commission that the project described in the application referred to above, if completed and maintained in conformance with all of the terms and conditions of that application, and of Land Use Permit #2W1012 will not cause or result in a detriment to public health, safety or general welfare under the criteria described in 10 V.S.A., Section 6086(a).

COMMISSION ORDER:

Based on the foregoing Findings of Fact and Conclusions of Law Land Use Permit #2W1012 is hereby issued.

Dated at North Springfield, Vermont, on June 22, 1995

By: 

Robin Stern, Acting Chair
District 2 Environmental Commission
Environmental Board

Others participating in this decision:
Thomas C. Spater

Any appeal of this decision must comply with all provisions of 10 V.S.A. §6069 and Environmental Board Rule 40 including the submission of ten copies of the following: notice of appeal, a statement of why the appellant believes the commission was in error, a statement of the issues to be addressed in the appeal, a summary of the evidence that will be presented, a preliminary list of witnesses and this decision. Decisions on minor applications may be appealed if a hearing was held by the district commission or timely requested by the appellant.

EXHIBIT LIST #2W1012
U.S. CELLULAR - CLIFFORD DUNCAN
WILMINGTON

| NO. | DATE | BY | SUBJECT |
|-----|--------|-----------|--|
| 1 | 5/4/95 | Applicant | Application Description |
| 2 | " | " | Application |
| 2A | " | " | Revised Application |
| 3 | " | " | Schedule B |
| 4 | " | " | Water Supply and Wastewater Disposal Permit Application |
| 5 | " | " | Deferral of Permit Application |
| 6 | " | " | Municipal Impact Questionnaire |
| 7 | " | " | Location Map |
| 8 | " | " | Flood Insurance Map |
| 9 | " | " | Soils Map and Information |
| 10 | " | " | Decision of Zoning Board of Adjustment |
| 11 | " | " | Letter 2/24/95 from Brian Johnson |
| 12 | " | " | Letter 3/3/95 from Everett Marshall |
| 13 | " | " | Photos (and map) illustrating visual impact |
| 14 | " | " | Excerpts from Windham Regional Plan |
| 15 | " | " | Letter 4/10/95 from Jeffrey Kevan |
| 16 | " | " | Decision |
| 17 | " | " | Drawing of Tower |
| 18 | " | " | Equipment Information |
| 19 | " | " | Letter 3/14/95 from Chris Bernier |

Exhibit List #2W1012
Page Two

| NO. | DATE | BY | SUBJECT |
|-----|---------|-----------|--|
| 20 | 5/4/95 | Applicant | Letter 3/9/96 from Eric Gilbertson |
| 21 | 5/4/95 | Applicant | Letter 2/27/95 from Diane Conrad |
| 22 | " | ANR | Interagency Comments (5/2/95) |
| 23 | " | " | Memo (5/1/95) from James McMenemy |
| 24 | " | " | Memo 4/28/95 from Dan Maxon |
| 25 | " | Applicant | Letter 5/1/95 from C. Allan Wright |
| 26 | " | " | Map of Proposed Land Use Windham Regional Plan |
| 27 | " | " | WW-2-0805 Permit |
| 28 | " | " | Deferral of Permit DE-2-3341 |
| 29 | " | " | Letter 3/15/95 from Green Mountain Power |
| 30 | " | " | Drainage Calculation |
| 31 | " | " | Project Plans (4 sheets) |
| 32 | 5/23/95 | ANR | Letter 5/18/95 from Edward Leary |
| 33 | " | Applicant | Letter 5/19/95 from Jeffrey Kevan |
| 34 | " | " | Memo 5/17/95 from Jeffrey Kevan |
| 35 | " | " | Letter 5/15/95 from Neil Deegan with Attachments |
| 36 | " | " | Letter 5/11/95 from Jeffrey Kevan with Attachments |
| 37 | " | " | Letter 8/25/94 from Neil Deegan |
| 38 | " | " | Letter 8/12/94 from Joseph Fanara |

CERTIFICATE OF SERVICE

#2W1012

I, April Hensel, hereby certify that I sent a copy of the foregoing findings and permit on June 22, 1995, by U.S. Mail, postage prepaid, to the following:

United States Cellular
288 Route 101
Bedford, NH 03110

Clifford & Diana Duncan
P. O. Box 685
Wilmington, VT 05363

Cellular One
3 Baldwin Avenue
So. Burlington, VT 05403

Robert & Reatha Southworth
RR T, Box 202
Wilmington, VT 05363

Robert Kazakiewich
P. O. Box 77
W. Wardsboro, VT 05360

Paul M. Brown
RD #2, Box 157A
W. Brattleboro, VT 05303

Richard Craig
LeRoy Womacke
1233 Shelburne Road SE6
So. Burlington, VT 05403

Dan Purjes
Skyline Partners
Box 190
Wilmington, VT 05363

Clyde Reed
Skyline Partners
HCR 13, Box 50
Jacksonville, VT 05342

Wilmington Bd. of Selectmen
Ms. Ann Manwaring
P.O. Box 217
Wilmington, VT 05363

Wilmington Town Planning
Ms. Barbara Cole
P.O. Box 217
Wilmington, VT 05363

Certificate of Service #2W1012
Page Two

Marlboro Bd. of Selectmen
Attn: Woody Bernhard
P.O. Box E
Marlboro, VT 05344

Marlboro Town Planning
Mr. Pieter H. vanLoon
P.O. Box E
Marlboro, VT 05344

Windham Regional Commission
139 Main St., Suite 505
Brattleboro, VT 05301

Ed Leary, State Lands Admin.
VT Dept. Forests, Parks
103 So. Main St.
Waterbury, VT 05671

Kurt Janson, Esquire
Agency of Natural Resources
103 South Main Street
Waterbury, VT 05676

FOR INFORMATION ONLY

District 2 Environmental Commission
RR #1, Box 33
North Springfield, VT 05150

Wilmington Town Clerk
Ms. Janice Karwoski
P.O. Box 217
Wilmington, VT 05363

Sonia Alexander
Town Manager
P.O. Box 217
Wilmington, VT 05363

Edward Metcalf
P.O. Box 11
Jacksonville, VT 05342

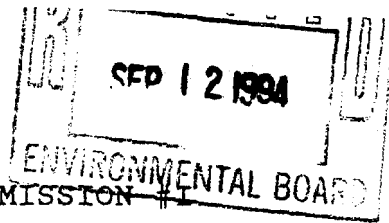
TF Moran, Inc.
Eric Morse
152 Davis Street
Keene, NH 03431

TF Moran, Inc.
Jeff Kevan
288 Route 101
Bedford, NH 03110

By: April Hensel
April Hensel
District 2 Coordinator

EXHIBIT I

STATE OF VERMONT ENVIRONMENTAL BOARD
DISTRICT ENVIRONMENTAL COMMISSION #1



Re: Atlantic Cellular Company L.P.
Attn: John Kelly
15 Westminster Street
Suite 830
Providence, RI 02903

#1R0766
Findings of Fact,
Conclusions of Law and
Final Decision on
Criterion 10 (Town Plan)

Richard C. and Charles Heleba
P.O. Box 85
Center Rutland, Vermont 05736

I. INTRODUCTION

Application #1R0766 was filed by co-applicants Atlantic Cellular Company, L.P. and landowners Charles and Richard Heleba on January 25, 1994, for the construction of a telecommunications facility consisting of a 120 foot self-supporting tower, a 12 foot by 20 foot concrete equipment shelter, a generator slab with generator and a 1,000 gallon propane tank all located in a 35 foot by 51 foot fenced compound on Boardman Hill. The proposed tower and other equipment were represented in the application as being located in West Rutland, Vermont. The project is represented in the application as conforming with the West Rutland Town Plan adopted on November 9, 1992. At the first of three public hearings on this case, an adjoining landowner introduced evidence that the project was actually located in the Town of Rutland, Vermont. The Commission heard testimony that, if the tower site is in the Town of Rutland, the project would not conform with the Rutland Town Plan adopted on December 27, 1993, which designates the area as neighborhood residential (R40A) use only. Ultimately, the applicants agreed to confine Commission review of this application to Criterion 10 (Town Plan) as allowed in 10 V.S.A. §6086 (b). The Commission recessed the third and final hearing on this criterion on August 19, 1994 pending receipt of final recess memorandum requirements. Those requirements were met and the Commission adjourned the final hearing on August 26, 1994. Pursuant to the statute, the Commission hereby issues our findings and decision on conformance with Criterion 10 for Application #1R0766.

II. PARTIES

The following entities are "parties of right" under Environmental Board Rule 14(A).

APP 51 037

Application #1R0766

Decision on Criterion 10

Page 2

1. The Co-Applicants, Atlantic Cellular and Charles Heleba, by Peter Kunin, Esq., Richard Craig, Gregory Dicovitsky, and Robert Krebs.
2. Town of West Rutland, by Francis Flynn.
3. Town of Rutland, by Joseph Zingale and J. Barry Burke.
4. The West Rutland Planning Commission was not represented.
5. The Rutland Planning Commission, by Charles Brothers.
6. The Rutland Regional Planning Commission, not represented.
7. The State of Vermont, Agency of Natural Resources, not represented.
8. John H. Bloomer, adjoining landowner, having demonstrated that the project might have direct effects on his property with regard to Criterion 10 (Town Plan). Mr. Bloomer also requested party status under additional criteria. Because we decided, with the applicants' agreement, to confine our decision to Criterion 10, we are not ruling on party status as to other criteria. The Commission notes that in this case, if we did not find that this adjoiner was eligible for party status under Criterion 10 (as an adjoiner), we would grant party status under Rule 14 (B) for the material assistance provided to the Commission by this adjoiner under Criterion 10.

III. BACKGROUND

As noted in prior memorandums, recess orders, and notices, a critical question involving this application has been whether the proposed project is legally situated in the Town of West Rutland - as represented in the application - or in the Town of Rutland.

The issue is important because the District Commission is obligated by statute to review applications for conformance with the Town Plan (Criterion 10). In this case, the Commission received conflicting evidence. The applicant submitted evidence of historical efforts to locate and to monument a municipal boundary line. The Commission reviewed two separate survey reports, one commissioned by the two towns in 1988, and the second being a report by the applicant's surveyor of his attempts to locate the boundary in 1994. Both surveyors concluded in summary, that "none of the written evidence has a description that can be reproduced with any absolute certainty on the ground" (Exhibit 57c p. 2, 1994).

The Commission also reviewed evidence submitted by an adjoining landowner that the Town of West Rutland, created by the Vermont Legislature on November 19, 1886, was legally comprised of School Districts 6, 7, 8, 9, 21, and the so-called central district. Graphic evidence of the location, on paper, of the school district line between District 21 or 7 (West Rutland) and District 12 (Town of Rutland) was limited to an 1869 copy of Beers Atlas for Rutland County. Other evidence of the school district division line was contained by inference, in a cronoflex prepared by the State Agency of Transportation, a survey map prepared by the U.S. Geological Survey, and in a survey plan prepared by the applicants' expert.

It is not the Commission's duty or obligation to establish the legal location of the projects we review. That burden is upon the applicant under 10 V.S.A. §6088(a). Nor is it the Commission's duty to establish municipal boundary lines. That is solely within the power of the legislature or courts. The Commission takes administrative notice of the statutory remedies available to municipalities where the boundary line is uncertain or subject to disagreement - see 2 V.S.A. §17 (Petition to General Assembly) and 24 V.S.A. §1461 (Petition to Superior Court).

In this case, the Commission notes five factors of particular relevance to our finding in this case:

1. The legislature created the Town of West Rutland in 1886 which, by definition, was made up of certain school districts.
2. The only graphic evidence (map) naming the school districts specifically, is the 1869 Beers Atlas for Rutland County.
3. The applicants' expert identified at least four possible locations of the municipal boundary line. From west to east, those possible lines are:
 - a. The school district line as it appears in the Beers Atlas.
 - b. The Town Line based on Boardman farm descriptions.
 - c. The Town Line tracking on two marble monuments located on either side of the State's Route 4 project.
 - d. The Town Line as generally described in the Rutland Herald in 1886, when the Town of West Rutland was created.